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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.												
10/527,000	08/05/2005	Clemente Jesus Sanchez Velasco	P/189-374	9409												
2352 7590 06/27/2007 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">VANAMAN, FRANK BENNETT</td></tr></table> <table border="1"><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3618</td><td></td></tr></table> <table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>06/27/2007</td><td>PAPER</td></tr></table>		EXAMINER		VANAMAN, FRANK BENNETT		ART UNIT	PAPER NUMBER	3618		MAIL DATE	DELIVERY MODE	06/27/2007	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/527,000	SANCHEZ VELASCO, CLEMENTE JESUS	
	Examiner	Art Unit	
	Frank Vanaman	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Spain on Sept. 5, 2002. A copy of the Spanish application has not been received in the US Office. **Specification**

2. The abstract of the disclosure, submitted with the preliminary amendment, is objected to because it is replete with informalities: (1) it is too long; (2) in line 1, "the present invention refers to..." is redundant and should be deleted; (3) there are numerous instances of informal or obtuse language such as "based on providing a selection of geometric parameters of both constructive conformations that jointly they must transfer you, so that, act the internal mechanism correctly for inclination of the insert container..." (e.g., lines 3-5). This is an exemplary listing.

It appears that applicant has simply copied the three paragraphs of the "object of the invention" section of the specification without ensuring that this text actually serves as an abstract as required in MPEP 608.01(b).

The abstract should be reviewed and revised for grammatical informalities.

Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: the specification as amended by the preliminary amendment, is replete with confusing and or grammatically informal language. Due to the substantial number of these instances, the examiner presents exemplary citations. The entire specification should be reviewed and revised for appropriate grammar and wording.

On page 1, lines 12-15, the phrase "based on providing a selection of geometric parameters of both constructive conformations that jointly they must transfer you, so that, act the internal mechanism correctly for inclination of the insert container" is informal; also see: on page 1, line 17, "whose essential interest resides in that it allows him to be located..."; on line 19, "lift it of the floor", on lines 19-20, "coarse with inclining it lightly".

4. The examiner notes with some substantial surprise that Applicant's preliminary amendment is also replete with grammatical informalities: see the replacement paragraph for page 8, line 12: "...and not limitative that pick up a prototype model." See

the replacement paragraph for page 8, line 21, "next to the recipient of metallic pressure."

Appropriate correction is required.

Claim Objections

5. Claims 1, 2, 5 and 6, as presented in the preliminary amendment are objected to because they are replete with grammatical informalities of which some examples are cited herein: claim 1, line 2 "with a slight basculación", claim 1, line 7, "in the journey of turn of the basculación" in claim 2, line 3 "with cupel form cylindrical".

Each and every claim should be carefully reviewed and revised for appropriate language. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claims 1, 2, 5 and 6 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. It appears as though applicant is not familiar with the presentation of claims appropriate for examination in the U.S. Office.

In claim 1, line 5, it is not clear what attributes of the receptacle are being claimed by the use of "appropriate"; in claim 1, line 7, it is not clear at all what is meant by "in the journey of turn of the basculación"; in claim 1, line 8, it is not clear whether the container referred to by "a container" is the same container previously recited in the claim of another container; in claim 1, lines 10-19, it is not clear whether or not applicant is attempting to incorporate method limitations into an apparatus claim; in claim 1, line 19, it is not clear what the phrase "without more" is intended to recite; in claim 2, line 3, it is not clear what a "cupel form cylindrical" is; in newly added claim 5, the phrase "...including height of the grosor of the constructive material of the cylindrical cupel" is entirely unclear, in newly added claim 5, "until 20% of the arrow of their segment of a

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circle" is entirely unclear as is the phrase "a dimension among the longitudes of the rope and the arrow of the spherical segment..." in newly added claim 6

7. As regards claims currently rejected under 35 USC §112, second paragraph, please note that rejections under 35 USC §102 and 103 should not be based upon considerable speculation as to the meaning of the terms employed and assumptions as to the scope of the claims when the claims are not definite. See *In re Steele* 305 F.2d 859, 862, 134 USPQ 292, 295 (CCPA 1962). When no reasonably definite meaning can be ascribed to certain terms in a claim, the subject matter does not become anticipated or obvious, but rather the claim becomes indefinite. See *In re Wilson* 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). As such the currently pending claims may be subject to prior art rejections not set forth herein upon the clarification of the claim language.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 2, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Eberhard (US 290,759). Eberhard teaches a rolling platform having a support base (between A and B) and an internal aperture (A) formed by a wide hole, the platform capable of enabling insertion and removal of an item by a slight "basculación" of an un-illustrated rigid container (line 21) without lifting the container from the floor (e.g., by tilting it sufficiently to one side), wherein a curved under portion of the container would contact an internal portion (e.g., proximate B), the platform having a lower cylindrical cupel as best understood, (e.g., bottom portion of B) having a size about 10% smaller than the interior wall of the base taken at a top plane (e.g., taken along a plane at the top of B), the difference between the respective diameters (e.g., taken at lower and upper planes) being about 12%, as best understood.

The reference to Eberhard fails to teach a combination wherein the the lower portion of the container has a convex shape. In view of the sloped internal arrangement, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a container with a convex profile for the purpose of mating with the profile of the platform.

The reference to Eberhard fails to teach the specific method steps of placing the container in and removing the container from the platform, however it would have been obvious to one of ordinary skill in the art at the time of the invention to attach and remove the container by a tilting onto the platform, causing an engagement between a convex container portion and the base and central aperture of the container, with the platform pivoting (e.g., in view of the wheels) from a horizontal condition until the container is placed thereon, for the purpose of allowing a container to heavy to lift to be placed on and removed from the platform.

The reference to Eberhard fails to specifically teach the wide hole as being a diameter of about half the diameter of the cupel, and the area being equal to the area of a lower base portion of the container. It is well known to adjust the relative sizes of containers and carrying carts for the purpose of ensuring a fitting engagement therebetween, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to size the hole (A) to be about $\frac{1}{2}$ the diameter of the cupel portion, and the area to be equal to a lower portion of the container to be carried, for the purpose of adjusting the platform to accommodate a desired sized object, and to use a smaller quantity of material (i.e., by enlarging the size of the hole A) thus lightening the platform.

Claims not rejected over the Prior Art

10. Newly added claims 5 and 6 are not currently rejected as being unpatentable over or anticipated by the prior art. These claims are sufficiently confusing as to prevent a meaningful comparison with the prior art.

Comment

11. The presence of a preliminary amendment to both the claims and specification is noted. The examiner notes that numerous grammatically informal and unclear or confusing language remain uncured in the specification and claims, and indeed it appears as though the preliminary amendment actually introduces further grammatical informalities. It is not at all clear how the presentation of such an amendment serves to place the application in appropriate form for examination. The examiner notes additionally that no Information Disclosure Statement has been filed in the application. Applicant is reminded of the contents of 37 CFR 1.56.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Burry (US 846,451), Lennard (US 2,472,952), Walker (US 2,707,351), Kellermeyer (US 4,544,173), Berfield et al. (US 4,650,200), Stephan (US 5,472,220) and Mitchell et al. (US 6,488,293) teach carts which may be of pertinence.

13. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618



6/15/07